P.R. No. 2711/06
Presented by Shri R.M. Tiwari
dated 18/9/06

(1) (3)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

Division Bench

TAX CASE No. 25 /2006

APPELLANT — Commissioner of Income Tax, Bilaspur.

VERSUS

RESPONDENTS

1. Income Tax Appellate Tribunal, Jabalpur.
2. Sitaram Gurudiwan, MIG-10, Sharda Vihar, Korba (C.G.).

APPEAL UNDER SECTION 260-A OF THE INCOME TAX ACT

(26)

HIGH COURT OF JUDICATURE AT BILASPUR: CHHATTISGARH

DIVISION BENCH

CORAM: **HON'BLE SHRI H.L. DATTU, CJ. &**
HON'BLE SHRI V.K. SHRIVASTAVA, J.

TAX CASE NO. 25 OF 2006

APPELLANT Commissioner of Income Tax, Bilaspur

Vs.

RESPONDENTS Income Tax Appellate Tribunal, Jabalpur & Another.

Present: Shri B.K. Rawat, counsel for the appellant.

ORAL ORDER
(Passed on 22nd February, 2007)

The following oral order of the Court was passed by H.L. Dattu, C.J.

This appeal is directed against the order passed by the Income Tax Appellate Tribunal, Jabalpur Bench, Jabalpur in I.T.A. No.237/Jab/2005 for the assessment year 2003-2004 dated 18.05.2006.

(2) In the memorandum of appeal the appellant has raised the following questions of law for our consideration and decision. They are as under:

"**QUESTIONS OF LAW**

(i) Whether on the facts and in the circumstance of the case, the Tribunal was justified in law in directing the A.O. to allow the claim of the assessee for exemption U/s.10(10C) of the Income Tax Act, 1961 to the extent of Rs. 5 Lakh?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was justified in applying the

prospective amendment, retrospectively for Assessment Year 2003-2004?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was justified in giving a liberal interpretation to the relevant provisions, which constituted 'substantive law'?

(iv) That, this Hon'ble court may kindly be pleased to frame other question of law as deem proper."

(3) In our opinion, in view of the orders passed by this Court in Income Tax Reference No.76 of 1997 disposed of on 30.01.2004, the questions of law raised by the Revenue are not debatable. In the aforesaid decision, this Court was pleased to observe that "having regard to the facts and circumstances of the case, we are of the opinion that the Tribunal was justified in law in dismissing the Departmental appeal as incompetent as per Board's circular dated 18.11.1992, without deciding the case on merits."

(4) We are in full agreement with the view expressed in the aforesaid decision. Accordingly, the questions of law raised by the Revenue are answered against the Revenue and in favour of the assessee. Ordered accordingly.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice